



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/173809

PRELIMINARY RECITALS

Pursuant to a petition filed April 22, 2016, under Wis. Admin. Code § HA 3.03(4), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on May 18, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner complied with FS work program requirements.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

||

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner was an ongoing FoodShare recipient. Petitioner's FS benefits ended April 1, 2016, because he allegedly failed to failed to complete the program's work requirements or establish an exemption.
3. Petitioner and his son share the same name.

4. The Respondent was unable to verify that the records submitted in this matter pertain to petitioner, and not petitioner's son.

DISCUSSION

Federal FoodShare law directs states to require recipients to work or participate in a Food Stamp Employment and Training Program (FSET) or a similar program. 7 CFR 273.7(a)(i). Wisconsin obtained a waiver that had made the FoodShare program's work requirements voluntary since 2008. In 2014, the state again made the work requirements mandatory. Wis. Stat. §49.79(10). Persons between 18 and 50 years old who are neither pregnant nor have children under 18 and who are mentally and physically able to work cannot receive FoodShare for more than three full months in any 36-month period unless they comply with the program's work requirements. 7 CFR § 273.24(b); Wis. Stat. § 49.79(1)(am) and (10)(a)2. To comply with these requirements, a person must work or participate in an authorized program at least 20 hours per week. 7 CFR § 273.24(a)(1).

The county agency notified the petitioner that it was ending his FoodShare benefits as of April 1, 2016, because he had not complied with the FSET requirements. Petitioner contends that there has been a mix up between his case and that of his son who shares his name. The petitioner testified that he has, in fact, complied with all FSET requirements. At hearing, the respondent was unable to verify that it had "the correct [REDACTED]" Because there is no verification that the respondent has taken the disenrollment action against the correct party, I will remand this matter.

CONCLUSIONS OF LAW

The county erred by imposing a three-month limit on petitioner's FS when the FSET agency failed to establish that it was properly proceeding against petitioner, as opposed to petitioner's son who has the same name.

THEREFORE, it is

ORDERED

That the matter be remanded to the respondent with instructions to remove the imposed three-month FS limitation on petitioner's case, reinstate petitioner's FS benefits, and to refer petitioner back to the FSET program. The respondent shall do so within 10 days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 31st day of May, 2016

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 31, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability